

Message Text

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E.O. 11652 GDS

TAGS: SHUM, PFOR, PINT, PINS, PK

SUBJECT: HUMAN RIGHTS

REF: A. ISLAMABAD 75 A-34; B. STATE 45319

1. FOLLOWING, AS REQUESTED REFTEL B, IS INTRODUCTION
AND SUMMARY OF AIRGRAM BEING POUCHED TO DEPARTMENT
ON HUMAN RIGHTS IN PAKISTAN.

2. INTRODUCTION AND SUMMARY. EMBASSY ISLAMABAD'S
LAST COMPREHENSIVE REPORT ON HUMAN RIGHTS IN PAKISTAN,
CONTAINED REFAIR A, IS STILL ACCURATE CONSIDERATION
AND DETERMINATION OF HUMAN RIGHTS SITUATION IN PAKISTAN.
THIS REPORT SHOULD BE READ IN CONJUNCTION WITH A-34
AND VIEWED AS UPDATE OF INFORMATION IT COTAINS.

3. PAKISTAN'S LEGAL, GOVERNMENTAL AND ADMINISTRATIVE
SYSTEM IS BASED ON WESTERN CONCEPTS AND BRITISH
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JURISPRUDENCE INCULCATED DURING NEARLY TWO HUNDRED

YEARS OF BRITISH RULE IN THE INDIAN SUBCONTINENT. THE GOVERNMENT IS COMPOSED OF A PARLIAMENTARY DEMOCRACY AND AN INDEPENDENT JUDICIARY ALONG BRITISH LINES. ALTHOUGH THE LOWER COURTS ARE SUSCEPTIBLE TO GOVERNMENT PRESSURE IN DETERMINING CASES, THE HIGH COURTS, AT BOTH THE PROVINCIAL AND FEDERAL LEVEL, ARE GENERALLY INDEPENDENT AND OFTEN FIND AGAINST THE GOVERNMENT AND OVERTURN ITS ADMINISTRATIVE DECISIONS.

4. THE CONSTITUTION OF PAKISTAN GUARANTEES A WIDE RANGE OF FUNDAMENTAL HUMAN RIGHTS, MANY OF WHICH PARALLEL THOSE FOUND IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. THERE ARE PROVISIONS IN THE CONSTITUTION, HOWEVER, WHICH ALLOW "REASONABLE" RESTRICTIONS ON BASIC HUMAN RIGHTS. THE MOST NOTABLE RESTRICTION IS IN CASES OF PREVENTIVE DETENTION WHERE AN INDIVIDUAL CAN BE HELD IF HE IS FOUND TO BE ACTING IN A MANNER "PREJUDICIAL TO THE INTEGRITY, SECURITY OF DEFENSE OF PAKISTAN." EVEN IN PREVENTIVE DETENTION CASES, HOWEVER, THERE ARE JUDICIAL AND ADMINISTRATIVE SAFEGUARDS.

5. A STATE OF EMERGENCY WAS DECLARED IN PAKISTAN IN NOVEMBER, 1971, AT THE TIME OF THE BANGLADESH CRISIS, AND IS STILL IN EFFECT. HOWEVER, THE SUSPENSION OF FUNDAMENTAL HUMAN RIGHTS, WHICH WAS DECLARED IN 1972, WAS LIFTED IN AUGUST, 1974. CONSEQUENTLY, THE RIGHT OF JUDICIAL APPEAL WHEN AN INDIVIDUAL BELIEVES HIS HUMAN RIGHTS HAVE BEEN VIOLATED IS ONCE MORE GUARANTEED.

6. PAKISTAN'S ACTUAL PRACTICE IN THE FIELD OF HUMAN RIGHTS IS MIXED. GENERALLY, BASIC HUMAN RIGHTS IN CRIMINAL AND CIVIL CASES ARE OBSERVED. ANY EXCEPTIONS ARE MORE A FUNCTION OF A LETHARGIC AND INEFFICIENT COURT SYSTEM RATHER THAN A DELIBERATE GOVERNMENT POLICY OF DEPRIVING ITS CITIZENRY OF BASIC RIGHTS. FREEDOM OF MOVEMENT AND ASSOCIATION MAY BE RESTRICTED UNDER A SECTION OF THE CRIMINAL CODE. GENERALLY, THIS HAS BEEN MORE OF AN IRRITANT TO OPPOSITION POLITICIANS THAN GROSS VIOLATION OF THEIR RIGHTS. FOR EXAMPLE THE CRIMINAL CODE CAN

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RESTRICT THE SIZE OF PUBLIC MEETINGS BUT STILL ALLOWS MEETINGS OF ANY SIZE TO BE HELD IN PRIVATE HOMES AND MOSQUES. THE MOST NOTABLE RESTRICTION ON FREEDOM OF ASSOCIATION WAS THE BANNING OF THE NATIONAL AWAMI PARTY IN EARLY 1975 BY THE GOVERNMENT. ACCORDING TO THE LAW, THE CASE WAS CONSIDERED BY THE SUPREME COURT WHICH RULED IN THE GOVERNMENT'S FAVOR LATE IN THE YEAR. THE NAP WAS THEREFORE PROVIDED A FULL

OPPORTUNITY TO EXHAUST ALL LEGAL REMEDIES.

7. THERE ARE CONSTITUTIONALLY GUARANTEED JUDICIAL REMEDIES IN CASES OF ABROGATION OF FUNDAMENTAL HUMAN RIGHTS. THE HIGH COURTS IN THE PROVINCES AND THE CENTER CAN DECIDE ON THE LEGALITY OF ANY ACT OF THE PROVINCIAL AND FEDERAL GOVERNMENTS. PEOPLE ARRESTED IN CRIMINAL OR CIVIL CASES USUALLY FIND FAIRLY QUICK JUSTICE. IN PREVENTIVE DETENTION CASES, A JUDICIAL REMEDY EXISTS SINCE THERE IS A LEGAL PROVISION FOR JUDICIAL REVIEW EVERY THREE MONTHS OF CASES CONCERNING PEOPLE HELD UNDER PREVENTIVE DETENTION. ADMINISTRATIVE REMEDIES FOR CASES OF VIOLATIONS OF HUMAN RIGHTS ARE NOT AS EFFECTIVE AS JUDICIAL ONES, ALTHOUGH PROVINCIAL AND FEDERAL GOVERNMENTS DO HAVE AGENCIES SPECIFICALLY TASKED WITH ANTI-CORRUPTION RESPONSIBILITIES WHICH HAVE THE MANDATE TO CHECK ON REPORTS OF HUMAN RIGHTS VIOLATIONS. ALSO, CITIZENS ARE ABLE TO APPEAL TO THEIR REPRESENTATIVES IN THE PROVINCIAL AND FEDERAL ASSEMBLIES WHEN THEY BELIEVE THEIR RIGHTS HAVE BEEN VIOLATED, BUT THIS PROCEDURE IS USUALLY NOT AS EFFECTIVE AS APPLYING FOR JUDICIAL REMEDIES.

8. ALTHOUGH PAKISTAN'S RECORD, ESPECIALLY IN NATIONAL SECURITY CASES, IS SPOTTY, THERE IS CERTAINLY NOT A "CONSISTENT PATTERN OF GROSS VIOLATION OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS." PAKISTAN'S GENERAL RECORD IS DEFENSIBLE AND NOT REPRESENTATIVE OF THE KINDS OF CONCERNS EXEMPLIFIED BY CONGRESSIONAL LEGISLATION ON FOREIGN ASSISTANCE AND HUMAN RIGHTS.
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